IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21828 of 2004

Between:

K. Ammi Reddy, S/o. Sura Reddy,
R/o. 10-69, Bapanamma Temple Street, Anaparthy V&M,

E.G.District.

..... PETITIONER

AND

1 The Andhra Pradesh Eastern Power Distribution Corporation

Ltd., rep. by its Superintending Engineer,
Rajahmundry, E.G.District.
2 The Andhra Pradesh Eastern Power Distribution Corporation

Ltd., rep. by its Divisional Engineer, Assessments Division,
Rajahmundry, E.G.District.
3 The Divisional Engineer, Operation, APEDCL,

Ramachandrapuram, E.G.District.
4 The A.P.E.P.D.C.Ltd., rep. by its Assistant Divisional

Engineer, Anaparthy, E.G.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction more particularly one in the nature of

Writ of Mandamus declaring the provisional Assessment Notice Lr.No.ADE/O/APT/F.DOC/S.Er/D.No.844/04 dt. 22.11.2004 issued by the 4th respondent, implicating the petitioner in the case of pilferage of energy and disconnection of the service connection S.C.No.2532/57769 is illegal, arbitrary, un-constitutional, violative of principles of natural justice, and contrary to the provisions of the Electricity Act 2003, and the same is liable to be set aside, and consequently direct the respondents to restore the power supply to the petitioner service connection NO.2532/57769, situated D.No. 1/96, Gandhinagar, Rajahmundry, E.G.Dist, forth with.

Counsel for the Petitioner:MR.G.KRISHNA MURTHY

Counsel for the Respondents: Mr.M.Subba Rao

The Court, at the stage of admission, made the following :

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ORDER:

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Petitioner challenges the order of provisional assessment, dated 22.11.2004, issued by the 4th respondent, insofar as it requires the petitioner to deposit a sum of Rs.1,94,152/-.

Petitioner is extended power supply connection to run an industry. On the basis of an inspection said to have been caused on 16.11.2004, the officials of the 4th respondent found that the meter seals were broken. On the basis of the same, it was

provisionally decided that there was a theft of energy valued at Rs.1,94,152/-. 4th respondent addressed a letter, dated 22.11.2004, to the petitioner stating that the value of the power said to have been committed theft was assessed at Rs.1,94,152/-. The power supply was disconnected on 24.11.2004. An indication was also given in the said letter that the petitioner can avail the benefit of compounding the offence.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents.

The legality of taking punitive measures of disconnection of power supply, on the strength of an order of provisional assessment, was considered by a Division Bench of this Court in Writ Appeal Nos.452 and 477 of 2004. In the order, dated 11.03.2004, this Court held that the order of provisional assessment does not entitle the respondents to disconnect the power supply. It was observed that such an order deserves to be treated as a show cause notice, and the liability of a consumer to pay the amount would arise only after an order of final assessment is made.

Following the same, the writ petition is disposed of directing the respondents to restore the power supply to the petitioner forthwith. It is, however, made clear that the liability of the petitioner to pay any amount towards theft of energy would arise after the order of final assessment is passed. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 29th November, 2004

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To

1 The Superintending Engineer, The Andhra Pradesh Eastern

Power Distribution Corporation Ltd., Rajahmundry,

E.G.District.

2 The Divisional Engineer, The Andhra Pradesh Eastern

Power Distribution Corporation Ltd., Assessments Division,
Rajahmundry, E.G.District.

3 The Divisional Engineer, Operation, APEDCL,

Ramachandrapuram, E.G.District.

4 The Assistant Divisional Engineer, A.P.E.P.D.C.Ltd.,

Anaparthy, E.G.District.

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